IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR.

O R D E R

S.B. Cirminal Misc. Petition No.905/2006.
(Nara Vs. State of Rajasthan)
In
S.B.Criminal Appeal No.275/1987

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Date of Order : 27/07/2006

PRESENT

HON'BLE MR. JUSTICE H.R. PANWAR

Mr. Kalu Ram Bhati, for the petitioner.
Mr. Ashok Upadhyay, Public Prosecutor for the State.

BY THE COURT:

By the instant criminal miscellaneous petition under Section 482 of the Code of Criminal Procedure, 1973 (for short, "the Code" hereinafter), the petitioner seeks extension of time to file personal and surety bonds as directed by this Court vide judgment dated 23.7.2004 passed in S.B. Criminal Appeal No. 275/1987.

The petitioner was convicted and sentenced for the offence under Section 435 IPC vide judgment and order dated 24-7-87 passed by the Additional Sessions Judge No.2, Udaipur. On an appeal to this Court, by the judgment dated 23-07-2004, the appeal of the petitioner was partly allowed and while

maintaining the conviction of the petitioner for the offence noticed above, he was given the benefit of probation and directed to be released on probation under Section 4 of the Probation of Offenders Act, 1958 (for short, "the Act"), provided he executes a personal bond in the sum of Rs.10,000/- with one surety of like amount to the satisfaction of the trial Court to maintain peace, tranquility and be of good behaviour and to appear and receive sentence awarded by the trial court when called upon to do so during the period of two years.

Learned counsel for the petitioner submits that due to unavoidable circumstances, the petitioner could not submit the bonds and therefore, he has been arrested. Learned counsel for the petitioner submits that the petitioner is now ready to file the personal and surety bonds as directed by this Court vide judgment dated 23-07-2004 and, therefore, fifteen days' further period from today may be allowed to the petitioner for filing the required bonds.

In Om Prakash Vs. State of Rajasthan, 1998-99 (Supp) Cr.L.R. (Raj.) 495, this Court found sufficient ground for condonation of delay on the part of the petitioner therein in not filing the personal bond and surety bonds since the petitioner therein could not comply with the order due to non-communication to him by his counsel.

In Krishan Lal Vs. State of Rajasthan (supra), the

petitioner therein was granted the benefit of Section 4 of the Act and directed to furnish the personal bond and surety bond within one month. However, he could not furnish the required bonds within the time fixed by the Appellate Court because of illness and poverty and later on went away to earn his livelihood. This Court extended the time to file personal bond and surety bonds.

In Ram Prasad Vs. State of Rajasthan (supra), the petitioner therein was given the benefit of the Act but he failed to comply with the order due to illness and a warrant of arrest was issued and he was arrested. He was ready to furnish the personal bond and surety bonds as also ready to deposit the amount of compensation. This Court directed that the petitioner therein shall be released on furnishing the required bonds as also on depositing the compensation as directed by the Appellate Court.

In Randhir Vs. Munsi Ram (supra), the petitioner therein failed to furnish the personal bond and surety bonds in compliance of the order of the Appellate Court. However, this Court further extended the time for two months to file the required personal and surety bonds.

In Mahendra Singh & ors. Vs. State of Bihar, AIR 2002 SC 387, the appellants therein were convicted under Sectin 324 IPC and sentenced to six months imprisonment. On appeal, while maintaining the sentence of fine, the substantive sentence

of imprisonment was reduced to the period of imprisonment already undergone by the appellants therein. The appellants therein failed to deposit the amount of fine without the stipulated period and moved successive petitions under Section 482 of the Code, which were rejected by the High Court. The Hon'ble Apex Court, having regard to the facts and circumstances of the case and in view of the statement that the appellants were advised to file numerous applications before the High Court, and having heard the counsel for the State, in the interest of justice, allowed the appeal and granted one month's time from the date of the judgment to make deposit of the fine as directed by the High Court.

Although there is no specific provision in the Code for fixing the period during which such bonds are to be furnished; however, it depends on the facts and circumstances of each case. In the instant case, while granting the benefit of probation under the Act, the petitioners were directed to furnish the personal and surety bonds. Keeping in view the peculiar facts and circumstances of the case and the fact that the petitioner is said to be a poor illiterate person, in my view, the ends of justice would be met in directing the petitioner now to furnish the required bonds as directed by this Court vide judgment dated 23.07.2004 in S.B. Criminal Appeal No. 275/1987, within fifteen days from today.

Consequently, the criminal miscellaneous petition is allowed and it is directed that petitioner Nara S/o Jagannath may now furnish the personal and surety bonds, as directed by this Court vide judgment and order dated 23.7.2004 in S.B.Criminal Appeal No. 275/1987, within fifteen days from today. On furnishing the requisite bail bonds, he be released. In case the required bonds are not furnished within fifteen days time so granted, the trial court will be free to proceed against the petitioner in accordance with law.

(H.R.PANWAR),J.

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